

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2007-1432-AIR-E TCEQ ID: RN100216324 CASE NO.: 34561
RESPONDENT NAME: Baylor College of Medicine

Page 1 of 2

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input checked="" type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Research and Diagnostic Laboratories, One Baylor Plaza, Houston, Harris County</p> <p>TYPE OF OPERATION: Educational institution</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on December 10, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Libby Hogue, Enforcement Division, Enforcement Team 3, MC 149, (512) 239-1165; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: Ms. Cyndi Baily, General Counsel, Baylor College of Medicine, One Baylor Plaza, Suite 160A, Houston, Texas 77030 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

DOCKET NO.: 2007-1432-AIR-E

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Record Review Relating to this Case: August 23, 2007</p> <p>Date of NOE Relating to this Case: August 27, 2007 (NOE)</p> <p>Background Facts: This was a routine record review. One program violation was observed.</p> <p>AIR</p> <p>Failure to timely submit an annual Permit Compliance Certification ("PCC") for the certification period of April 1, 2006 to March 31, 2007 [30 TEX. ADMIN CODE §§ 122.146(2) and 122.143(4) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>	<p>Total Assessed: \$1,925</p> <p>Total Deferred: \$385 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$1,540</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent submitted the required PCC for the certification period of April 1, 2006 to March 31, 2007 on August 22, 2007.</p>

Additional ID No(s): FOP No. O-01417 and HG7572J



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 26, 2007

TCEQ

DATES	Assigned	4-Sep-2007	Screening	5-Sep-2007	EPA Due	26-May-2008
	PCW	5-Sep-2007				

RESPONDENT/FACILITY INFORMATION

Respondent	Baylor College of Medicine
Reg. Ent. Ref. No.	RN100216324
Facility/Site Region	12-Houston
Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	34561	No. of Violations	1
Docket No.	2007-1432-AIR-E	Order Type	1660
Media Program(s)	Air	Enf. Coordinator	Libby Hogue
Multi-Media		EC's Team	EnforcementTeam 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$2,500**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History **2% Enhancement** **Subtotals 2, 3, & 7** **\$50**

Notes

A 2% enhancement is recommended for having one NOV for non-similar violations within the past five years.

Culpability **No** **0% Enhancement** **Subtotal 4** **\$0**

Notes

The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply **25% Reduction** **Subtotal 5** **\$625**

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary	X	
N/A		(mark with x)

Notes

The Respondent submitted the annual Permit Compliance Certification ("PCC") for the certification period of April 1, 2006 to March 31, 2007 on August 22, 2007.

0% Enhancement* **Subtotal 6** **\$0**

Total EB Amounts	\$8
Approx. Cost of Compliance	\$500

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$1,925**

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment** **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes

Final Penalty Amount **\$1,925**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$1,925**

DEFERRAL **20% Reduction** **Adjustment** **-\$385**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY **\$1,540**

Screening Date	5-Sep-2007	Docket No.	2007-1432-AIR-E	PCW
Respondent	Baylor College of Medicine			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	34561			<i>PCW Revision June 26, 2007</i>
Reg. Ent. Reference No.	RN100216324			
Media [Statute]	Air			
Enf. Coordinator	Libby Hogue			

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 2%

>> Repeat Violator (Subtotal 3)

No **Adjustment Percentage (Subtotal 3)** 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer **Adjustment Percentage (Subtotal 7)** 0%

>> Compliance History Summary

Compliance History Notes

A 2% enhancement is recommended for having one NOV for non-similar violations within the past five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 2%

Screening Date	5-Sep-2007	Docket No.	2007-1432-AIR-E	PCW
Respondent	Baylor College of Medicine	Policy Revision 2 (September 2002)		
Case ID No.	34561	PCW Revision June 26, 2007		
Reg. Ent. Reference No.	RN100216324			
Media [Statute]	Air			
Enf. Coordinator	Libby Hogue			
Violation Number	1			
Rule Cite(s)	30 Tex. Admin Code §§ 122.146(2) and 122.143(4) and Tex. Health & Safety Code § 382.085(b)			
Violation Description	Failed to timely submit an annual PCC for the certification period of April 1, 2006 to March 31, 2007. Specifically, the PCC was due on April 30, 2007 and was not submitted until August 22, 2007.			
Base Penalty				\$10,000

>> Environmental, Property and Human Health Matrix

OR		Harm				
	Release	Major	Moderate	Minor		
	Actual					
	Potential				Percent	0%

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor		
		x				
					Percent	25%

Matrix Notes	100% of the rule requirement was not met.
---------------------	---

Adjustment	\$7,500
-------------------	---------

\$2,500

Violation Events

Number of Violation Events	1		144	Number of violation days
----------------------------	---	--	-----	--------------------------

mark only one with an x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty	\$2,500
-------------------------------	---------

One single event is recommended based on the record review conducted on August 23, 2007.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount	\$8
	Violation Final Penalty Total
	\$1,925
This violation Final Assessed Penalty (adjusted for limits)	
\$1,925	

Economic Benefit Worksheet

Respondent Baylor College of Medicine

Case ID No. 34561

Reg. Ent. Reference No. RN100216324

Media Air

Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$500	30-Apr-2007	22-Aug-2007	0.3	\$8	n/a	\$8

Notes for DELAYED costs

The estimated costs to submit a PCC. Date required is the date in which the PCC was due. Final date is the date in which the PCC was submitted.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$8

Compliance History

Customer/Respondent/Owner-Operator: CN600128565 Baylor College of Medicine Classification: AVERAGE Rating: 0.64
 Regulated Entity: RN100216324 RESEARCH AND DIAGNOSTIC LABORATORIES Classification: AVERAGE Site Rating: 0.22

ID Number(s):
 AIR OPERATING PERMITS ACCOUNT NUMBER HG7572J
 AIR OPERATING PERMITS PERMIT 1417
 INDUSTRIAL AND HAZARDOUS WASTE EPA ID TXD051113330
 GENERATION
 INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE REGISTRATION # 71002
 GENERATION (SWR)
 AIR NEW SOURCE PERMITS ACCOUNT NUMBER HG7572J
 AIR NEW SOURCE PERMITS AFS NUM 4820101486
 AIR NEW SOURCE PERMITS PERMIT 51087
 AIR NEW SOURCE PERMITS PERMIT 52855

Location: 1 BAYLOR PLZ, HOUSTON, TX, 77030 Rating Date: 9/1/2007 Repeat Violator: NO

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: September 05, 2007

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: September 04, 2002 to September 04, 2007

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Libby Hogue Phone: 512-239-1165

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
 N/A

B. Any criminal convictions of the state of Texas and the federal government.
 N/A

C. Chronic excessive emissions events.
 N/A

D. The approval dates of investigations. (CCEDS Inv. Track, No.)

- 1 03/17/2003 (25132)
- 2 05/20/2003 (31821)
- 3 07/21/2003 (143556)
- 4 07/21/2003 (144726)
- 5 11/13/2003 (251711)
- 6 12/05/2003 (253787)
- 7 11/05/2004 (335523)
- 8 08/30/2007 (573385)

E. Written notices of violations (NOV). (CCEDS Inv. Track, No.)

Date: 03/17/2003 (25132)
 Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 106, SubChapter A 106.8(c)(1)
 Description: Failure to maintain a copy of each PBR and the applicable general conditions of 30 TAC Chapter 106.4 or the general conditions, if any, in effect at the time of the

claim under which the facility is operating.

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 117, SubChapter B 117.219(f)[G]

Description: Failure to make the stationary diesel engine operating records available upon request.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
BAYLOR COLLEGE OF MEDICINE
RN100216324

§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2007-1432-AIR-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Baylor College of Medicine ("BCM") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and BCM appear before the Commission and together stipulate that:

1. BCM owns and operates an educational institution at One Baylor Plaza in Houston, Harris County, Texas (the "Site").
2. The Site consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and BCM agree that the Commission has jurisdiction to enter this Agreed Order, and that BCM is subject to the Commission's jurisdiction.
4. BCM received notice of the violations alleged in Section II ("Allegations") on or about September 4, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by BCM of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of One Thousand Nine Hundred Twenty-Five Dollars (\$1,925) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). BCM has paid One Thousand Five Hundred Forty Dollars (\$1,540) of the

administrative penalty and Three Hundred Eighty-Five Dollars (\$385) is deferred contingent upon BCM's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If BCM fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require BCM to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and BCM have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that BCM submitted the required Permit Compliance Certification ("PCC") for the certification period of April 1, 2006 to March 31, 2007 on August 22, 2007.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that BCM has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Site, BCM is alleged to have failed to timely submit an annual PCC for the certification period of April 1, 2006 to March 31, 2007, in violation of 30 TEX. ADMIN CODE §§ 122.146(2) and 122.143(4) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on August 23, 2007.

III. DENIALS

BCM generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that BCM pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and BCM's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Baylor College of Medicine, Docket No. 2007-1432-AIR-E" to:

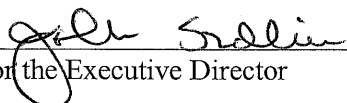
Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The provisions of this Agreed Order shall apply to and be binding upon BCM. BCM is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Site operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, shall not be admissible against BCM in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
4. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to BCM, or three days after the date on which the Commission mails notice of the Order to BCM, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director

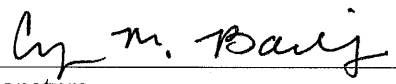
12/7/07
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.


Signature

10/9/07
Date

Cyndi M. Bailey
Name (Printed or typed)
Authorized Representative of
Baylor College of Medicine

10-9-07
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

James M. Smith

James M. Langlois